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Wendy A. Frick

Customer Number

24024

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Anderson, Gregory
LaFont, et al.)	
)	
Serial No.: 10/508,739)	Art Unit: 3709
)	
Internationally Filed: April 2, 2004)	
)	
For: POLYMER-BASED STENT ASSEMBLY)		Attorney Docket No.: 29644/04002

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sirs:

In response to the Restriction Requirement mailed August 31, 2007, applicants hereby elect Group I, claims 1-10, drawn to a method for preparing assembly. The election is with traverse.

Applicant submits that restriction is not proper in this instance. M.P.E.P. § 803 states the requirement for a **proper** restriction.

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; **and (B) There must be a serious burden on the examiner if restriction is required.**

(M.P.E.P. § 803, citations omitted, emphasis added.) Thus, there are **two** requirements for restriction: distinctness **and** a **serious** burden. Both are required; distinctness without a serious burden is not sufficient to justify restriction. Indeed, section 803 explicitly states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

Applicant respectfully submits that restriction is not proper in this case. While the claims of Groups I-V may satisfy the Office's requirements for distinctness, consideration of Group I and Group II would not result in a **serious** burden on the Office, particularly since the stent is

part of the assembly and the steps for “educating” the stent in both groups of claims are the same. Accordingly, applicant respectfully requests withdrawal of the restriction with regards to the claims in Group I and Group II.

It is believed that there is no additional fee associated with the filing and consideration of this response, however, **should the Commissioner decide that any fee or fee deficiency is due, the Commissioner is hereby authorized to charge any and all fees incurred as a result of entering this response to deposit account number 03-0172.**

Respectfully submitted,

Date: September 26, 2007

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